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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,991	10/22/2001	So Kawamura	NSUG:845	7803

7590 04/02/2004

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EXAMINER
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MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/982,991

Applicant(s)

KAWAMURA ET AL.

Examiner

James S McClellan

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NGJ

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Amendment*

1. Applicant's submittal of an amendment was entered on December 23, 2003, wherein:  
claims 1-14 are pending and  
claims 1, 2, and 4-14 have been withdrawn

It is noted that Applicant defined claim 3 as "currently amended", but claim 3 did appear to be amended. Clarification is requested.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,148,291 (Radican) in view of U.S. Patent No. 5,712,989 (Johnson et al.).

Regarding **claim 1**, Radican discloses a method for managing physical distribution of products and returnable containers in which a first party ships at least one products packed in a returnable container to a second party in response to a request from the second party to ship the at least one product, and the second party sends back the returnable container to the first party (see column 7, lines 47-54 and column 16, lines 4-44), including the steps of: receiving a request from a second party to ship at least one product (it is inherent that the customer requested the

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product); determining a product inventory (via database 12); and [claim 5] transmitting to a server via the computer network data indicating a number of products shipped from the first party, and renewing inventory information database of the products on the server based on the number of shipped products received by the second party.

Radican fails to disclose determining a returnable container inventory balance and when said balance is below a predetermined inventory level, sending notice to the second party to return empty containers. The Examiner notes that Radican appears to disclose a second party returning empty containers as soon as the containers are emptied, not upon notice of a low container inventory by a first party.

Johnson et al. teaches an inventory management system that links a first party and a second party, wherein when an item has a low inventory, a notice is sent to suppliers to replenish the low inventory (see column 2, lines 22-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Radican with an inventory monitoring system as taught by Johnson et al. , because utilizing a just-in-time inventory management system will allow Radican to only store the optimum number of containers, wherein reducing inventory costs for empty containers.

Regarding **claims 7 and 10**, Radican in combination with Johnson et al. disclose a system for managing physical distribution of products and returnable containers in which a first party ships at least one product packed in a returnable container to a second party upon a request of the second party to ship the products and the second party sends back a number of returnable containers as set forth above for method claim 1.

***Response to Arguments***

4. Applicant's arguments filed December 23, 2003 have been fully considered but they are not persuasive.

On page 16, third paragraph, Applicant notes that the specification has been amended to correct a minor spelling error. Applicant's amendment is acknowledged and the objection of the specification is withdrawn.

On page 16, final paragraph, Applicant summarizes features of the present invention. Applicant's summary is acknowledged.

On page 18, final paragraph, Applicant argues that Johnson et al., the secondary reference, does not describe receiving a request from a party to ship at least one product, determining a product inventory balance based on inventory information about the products and the request. The Examiner respectfully disagrees. Johnson et al. disclose a host computer and a local computer in communication to determine when a order should be requested. Each computer access their own Just-In-Time (JIT) Inventory database and transmit a requisition of an item (see column 2, lines 9-14). Additionally, Applicant argues that Johnson et al. does not disclose a step for determining a product inventory balance based on (1) inventory information and (2) the request. Again, the Examiner respectfully disagrees. JIT by definition, *Barons Business Guides Dictionary of Business Terms* (Third Edition), requires close coordination between buyers and suppliers to maximize the relationship between production and sales levels with inventory, reducing carrying costs. Johnson et al. utilizes JIT and clearly discloses determining a product inventory based on inventory information which inherently includes in the determination inventory levels adjusted by the request.

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On page 19, first full paragraph, Applicant argues that Johnson does not teach determining a returnable container inventory balance based on inventory about the returnable containers. Johnson discloses an inventory system for JIT inventory management. It is Radican that is relied upon for tracking inventory levels of shipping containers. Using Johnson's teaching of JIT inventory management it would have been obvious to modify Radican to employ JIT for ordering the return of the containers, wherein reducing the inventory storage costs.

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

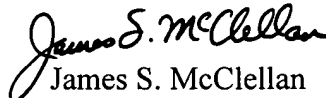
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks  
Washington D.C. 20231

or faxed to:

(703) 872/9306 (Official communications) or  
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7<sup>th</sup> floor receptionist.

  
James S. McClellan  
Primary Examiner  
A.U. 3627

jsm  
March 31, 2004